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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Jerry A. Pabro,

No. CV-17-00425-TUC-CKJ

10 Petitioner,

ORDER

11 v.

12 Charles L. Ryan, et al.,

13 Respondents.

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15 On March 28, 2019, Magistrate Judge Lynnette C. Kimmins issued a Report and
16 Recommendation (Doc. 16) in which she recommended the Court enter an order dismissing
17 Petitioner Jerry A. Pabro's Petition for Writ of Habeas Corpus as untimely. The Report and
18 Recommendation advised the parties that, pursuant to Federal Rule of Civil Procedure
19 72(b)(2), any party may serve and file written objections within fourteen (14) days of being
20 served with a copy of the Report and Recommendation. No objections have been filed
21 within the time provided by Fed. R. Civ. P. 72(b)(2).¹

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23 ¹ The standard of review that is applied to a magistrate judge's report and recommendation
24 is dependent upon whether a party files an objection – the Court need not review portions
25 of a report to which a party does not object. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).
26 However, the Court must “determine de novo any part of the magistrate judge’s disposition
27 that has been properly objected to. The district judge may accept, reject, or modify the
28 recommended disposition; receive further evidence; or return the matter to the magistrate
judge with instructions.” Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1).
Nonetheless, “while the statute does not require the judge to review an issue de novo if no
objections are filed, it does not preclude further review by the district judge, *sua sponte* or
at the request of a party, under a de novo or any other standard.” *Thomas*, 474 U.S. at 154.

After an independent review, the Courts finds it appropriate to adopt the Report and Recommendation and dismiss the Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus as untimely.

Accordingly, IT IS ORDERED:

1. The Report and Recommendation (Doc. 16) is **adopted**.
2. The Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. 1) is **denied**.

4. The Clerk of the Court shall enter judgment and shall then close its file in this matter.

5. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, in the event Petitioner files an appeal, the Court declines to issue a certificate of appealability because reasonable jurists could not “debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated this 29th day of April, 2019.

Cindy K. Jorgenson
Honorable Cindy K. Jorgenson
United States District Judge